IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

WP(C).No. 35897 of 2007(W)
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ORDER IN IA.6803/05 IN IA.1723/88 IN RCP.145/1987 of
RENT CONTROL COURT,THRISSUR
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PETITIONER:

ALEX, S/O.LATE CHIRAYATH PAUL,
NELLANKARA DESOM, NETTISSERY
VILLAGE, THRISSUR TALUK.

BY ADV. SRI.N.P.SAMUEL

RESPONDENTS:

1. SMT.SANTHA, W/O.LATE MANGALAM DAVY,
NEHRU NAGAR, OLLUKKARA VILLAGE,
P.O.OLLUKKARA, THRISSUR-680 655.

2. SWEETY, D/O.LATE MANGALAM DAVY,
NEHRU NAGAR, OLLUKKARA VILLAGE,
P.O.OLLUKKARA, THRISSUR-680 655.

3. PRASANTH, S/O.LATE MANGALAM DAVY,
NEHRU NAGAR, OLLUKKARA VILLAGE,
P.O.OLLUKKARA,THRISSUR-680 655.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.Balakrishnan Nair &
K.P.Balachandran, JJ.

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W.P.(C)No. 35897 of 2007 W

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**JUDGMENT**

Balakrishnan Nair, J.

One of the legal heirs of the landlord, who is one of the respondents in I.A.No.6803/05 in I.A.No.1723/88 in R.C.P.No.145/87 is the petitioner. The respondents are the legal heirs of the tenant. The first respondent herein filed the above IA before the Rent Controller, seeking a direction to the landlord to reconstruct the building as per the compromise order in the aforesaid Rent Control Petition or permit the tenants to reconstruct the building and adjust the amounts expended, towards the rent payable. Exhibit P2 is the petition. The landlords filed Exhibit P3 petition. By Exhibit P4, the Rent Controller decided to take evidence and hear the petition on merits. The said IA was posted to 10.7.2007 for enquiry. The said decision of the Rent Controller is under challenge in this writ petition filed under Article 227 of the Constitution of

India.

According to the learned counsel for the petitioner, the IA filed by the tenants is not maintainable. Further, the Rent Controller has no jurisdiction to entertain the said petition. We feel that these are all matters, which should be raised before the Rent Controller. It is not proper for this Court to consider those contentions under Article 227 of the Constitution of India. If the petitioner is aggrieved by the final order that my be passed in the aforesaid IA, the petitioner has got remedies under the provisions of the Kerala Building (Lease and Rent Control) Act, 1965.

In the result, the writ petition is dismissed without prejudice to the contentions of the petitioner.

(K.Balakrishnan Nair, Judge)

5th December, 2007

(K.P.Balachandran, Judge)

tkv